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CLERK U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
YOUNGSTOWNUNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE:)	CASE NO.: 02-41616
)	
WILFRED IRIZARRY,)	
)	
Debtor.)	ADV. PRO. NO.: 08-04121
*****)	
WILFRED IRIZARRY,)	JUDGE KAY WOODS
)	CHAPTER 13
Plaintiff,)	
)	
vs.)	ALLTEL COMMUNICATIONS, INC.'S
)	MOTION TO DISMISS
AFNI, INC., et al.)	
)	
Defendants.)	

Pursuant to Fed. R. Civ. P. 12(b)(6) and Bankr. R. 7012 defendant Alltel Communications, Inc. ("Alltel") moves to dismiss plaintiff Wilfred Irizarry's ("Plaintiff's") Complaint for failure to state a claim. As set forth in the accompanying memorandum in support, Alltel did not attempt to collect any debt from Plaintiff and no private right of action exists for the alleged violation of 11 U.S.C. § 524. Accordingly, Plaintiff's claims fail as a matter of law.

Respectfully submitted,

/s/ Gregory R. Farkas

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CERTIFICATE OF SERVICE

I do hereby certify that, on this 6th day of August, 2008, a copy of the foregoing Motion to Dismiss and Memorandum in Support was filed electronically with the Federal Court. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

/s/ Gregory R. Farkas

One of the Attorneys for Defendant
Alltel Communications, Inc.